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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,291	01/08/2004	Foy Streetman	S-00019-022	7595
25178	7590	02/22/2010		
A PATENT LAWYER CORP, PLC R WILLIAM GRAHAM 3340 ROSEWOOD LN OKLAHOMA CITY, OK 73120			EXAMINER BEKERMANN, MICHAEL	
			ART UNIT 3622	PAPER NUMBER
			NOTIFICATION DATE 02/22/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

bill@apatentlawyercorpplc.com  
apatentlawyer@hotmail.com  
info@apatentlawyercorpplc.com

## **DETAILED ACTION**

This action is responsive to papers filed on 12/7/2009.

### ***Election/Restrictions***

1. Newly submitted claims 22-41 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Originally filed claims 21 and 22 are directed towards a method of initiating reforestation after associating carbon credits with a product.

Newly amended claims 22-32 recite a separate and distinct invention which performs a reforestation process while using software to purchase carbon credit related products. Newly amended claims 33-41 recite a separate and distinct invention which performs a reforestation process while purchasing carbon credit related products without using specific software.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 22-41 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. As there are no claims left to examine in the current application, the response received 12/7/2009 is held to be non-compliant.

***Response to Arguments***

2. Applicant argues "There is no reason that the prior amendment should not have been allowed since no action on the merits had been made prior to the amendment" and "the applicant should have been permitted to amend the claims via a preliminary amendment, which applicant did, prior to examination". Examiner believes the point of contention seems to be arising from the language included in the last Office Action which stated "Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits". This is the typical sentence that is used for restriction by original presentation, and was included by mistake by the Examiner. The proper sentence to use was "Since applicant has already elected claims 21 and 22 without traverse, this invention has been constructively elected by original presentation with respect to the current and future amendments". Applicant is indeed allowed to submit amendments to the claims at any point during the prosecution of the application. However, the amendments that were submitted on 12/16/2008 were drawn to an invention that was already elected without traverse or prejudice by Applicant in that same response. Such an election without traverse signifies that Applicant agrees that a different search would be required and that the claims would indeed represent a serious burden on the Examiner, and yet Applicant still added such restricted language back into the claims. The restriction was made on the grounds of subcombinations usable together, which means that while the inventions could be used together to perform a function, they still represent different inventions. Therefore, the withdrawal of claims 23-

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41 in the Office Action mailed 8/6/2009 is deemed to be proper. As such, and as explained above, the claims submitted in the response received 12/7/2009 are directed to an entirely different invention, and are therefore elected by original presentation as well, leaving no active claims available for prosecution on the merits.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL BEKERMAN whose telephone number is (571)272-3256. The examiner can normally be reached on Monday - Thursday, 9:00 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Bekerman/  
Primary Examiner, Art Unit 3622